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1. General

This Guidance Note is set out in a way that is [appropriate to set up a charity](#) and you should read it before you consider setting up a charity.

[Guidance Note: Is it necessary or appropriate to set up a charity?](#) See [here](#) and we suggest that you

This Guidance Note: Setting up a charity would be based in England, Wales and Northern Ireland, where the rules relating to charities are different to those in Scotland.

that any charity that you might set up would be based in England, Wales and or Northern Ireland, where the rules relating to charities are different to those in Scotland.

2. What is a charity?

Although the meaning of “charity”, its legal meaning. It includes some areas of activity that might in everyday, non-technical, terms be considered to be charitable.

with the everyday non-technical meaning of “charity”, its legal meaning. It includes some areas of activity that might in everyday terms might be considered to be charitable.

An organisation will only be a charity in law if it meets certain legal requirements. [What Makes an Organisation a Charity?](#) explains in detail that an organisation must be established for “charitable purposes” and means that the organisation must be established for one or more of the 13 “heads” of charitable purposes listed in section 1 of the Charities Act 2006 and that the organisation is for the public benefit. That note also explains what is meant by “public benefit”.

in law and then maintain that status. Please consider our [Guidance Note: What Makes an Organisation a Charity?](#) which you can see [here](#). That note explains what is meant by “charitable purposes” in law if it is established for “charitable purposes”. In essence, it means that the organisation must be established for one or more of the 13 “heads” of charitable purposes listed in section 1 of the Charities Act 2006 and that the organisation is for the public benefit.

3. Limitations/disadvantages

In addition to the requirements for an organisation to be a charity in law (as outlined above) the following limitations apply to charities:

able if an organisation is to be a charity in law, the following limitations apply to charities:

- all of its assets must be used for charitable purposes;
- any profit must be applied to charitable purposes;
- it must have charity trustees;
- its charity trustees can only benefit in limited circumstances;
- it must not exist for the private inurement of any individual;
- its governing document (usually referred to as the Memorandum and Articles of Association) must state its charitable purposes;
- the charity trustees must ensure that the assets are only applied in pursuance of those charitable purposes for the public benefit.

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If you do not wish or are not able to set up a new charity to fulfil your intentions, you will not be able to set up a charity.

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4. Advantages of charitable status

The following benefits arise from setting up a charity:

as a “charity” in law:

- availability of certain tax reliefs and exemptions;
- the right to reclaim VAT on certain goods and services.

include corporation tax, VAT, and other tax reliefs and exemptions.

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- donors will generally
- business rates relief
- access to funding which encourages donations (not only allowed to provide fund charities.)
- public recognition, for

on legacies to a charity.

g of the organisation as a charity grant funding. (Some bodies are or they decide that they will only

rt.

5. The different types of structure

formed by a charity

If you have made a firm decision on the legal form that you wish to use to form a charity:

charity, you will then need to decide which of the following structures can be

- charitable company
- charitable incorporated organisation (CIO) model, as to which
- charitable unincorporated association
- charitable trust

(a “foundation” or “association”

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The first two of the above are corporate forms, such as a charitable company or CIO, which provide such protection from potential personal liability. Charitable trusts do not provide such protection.

are corporate entities, and using such a form provides you with a degree of legal protection. Charitable trusts and unincorporated entities do not provide

We suggest that you read our [Charity Constitution Document Templates](#) subfolder which provides templates for each legal structure that can be used. The subfolder for each legal structure is likely to contain several templates for that charity constitutions covering

our [Charity Constitution Document Templates](#) subfolder offers to the above different types of legal structure. This can help you decide which type of legal structure is likely to be most appropriate. Each subfolder contains templates for each of the different legal structures.

As to CIOs in particular, they are run only by its trustees, and they will be the appropriate form if you wish to have a wider membership. Charitable unincorporated associations will be the appropriate form. You can find [here](#) which you can find [here](#) “association” models.

D. If your charity will be small, run by a few members, the “foundation” model is appropriate. If your charity is or will become larger and it is to have a wider membership (i.e. a membership), the “association” form will be appropriate. You can find [here](#) [Charity Constitution Document Templates](#) subfolder which you can find [here](#) for both the “foundation” and the “association” models.

That subfolder also contains [Charitable Incorporated Organisations \(“CIOs”\)](#) which you can see [here](#). CIOs since it considers not only the legal structure but also matters to be considered in relation to the CIO form or some other legal structure.

[Charitable Incorporated Organisations](#) that you read that Guidance Note: [Charitable Incorporated Organisations](#) is a legal structure for a charity but you should decide whether to use the CIO form

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6. Trustees

No matter which legal structure you choose, you will need to have trustees. The founder/s of the charity will be the first trustees, but there may be other or additional trustees. The number of trustees will depend on the type of legal structure, the charity's needs, and the charity's objectives.

For your new charity, it will need to have trustees. The founder/s will be the first charity trustees, but there may be other or additional trustees. The number of charity trustees will depend on the type of legal structure, the charity's needs, and the charity's objectives.

Even though charity trustees are not paid for their work or receive any other financial benefit, they do have significant legal duties and responsibilities and potential liabilities.

Charity trustees are not paid for their work or receive any other financial benefit, but they do have significant legal duties and responsibilities and potential liabilities, if you approach individuals

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with a view to them serving do so. That could be one and instead seek to achieve connection you read the in [responsibilities and liabilities](#) can see [here](#).

They might have some reluctance to decide not to set up a new charity other way. We suggest that in this [Practice Note - Charity trustees' duties](#), Practice Note itself both of which you

Several online resources are willing to take on a charity

Charities to find suitable individuals

Before taking the decision first trustees should familiarise them and the charity. If, as that there would be a less the founder/s and those people setting up a new charity at

Individuals intending to serve as its these areas of law that will impact on burden would be too great and/or achieving the founders' purpose, might decide not to go ahead with

7. Members

A charity may also have members normally are entitled to apply the constitution will provide constitution and they will members are not responsible only of its trustees.

form the organisation initially and members have limited powers but to change the terms of the charity's other to wind up the charity. The changing the charity. That is the role

8. Additional human resources

When a new charity is set up management and other tasks at outset, or if it grows, it is many tasks on a day to day basis

It initially be able to carry out all is not a small organisation at the is will need assistance with various

Staff

Some charities will need to The trustees will need to professional manner and the other relevant areas of law

staff either from the outset or later. ge and manage employees in a to adhere to employment law and

Volunteers

Trustees of many charities need that help whether or not

services of volunteers. They may paid staff.

It is all too easy to assume because they are not paid should also be engaged as [Note: Charity Volunteers](#) will have a volunteer agreement there are. There should be it can help the charity to pay law, not employees. The obligations and duties the volunteers.

can be dealt with informally simply number of reasons why volunteers way as outlined in our [Guidance Note: Charity Volunteers](#) explains that every charity should volunteers, however few volunteers number of reasons, one being that they are genuinely volunteers in explains that some of the legal employees are also applicable to

9. Financing

A charity cannot have shares. Charities may have not available or inadequate type of financing that it will

cannot be raised from any issue of individuals or others. If loan funding is will have to consider the level and initially and on an ongoing basis.

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Before you set up your company, you should check what is available to you from government grants, etcetera, whether funds can be used for what other sources of funding you could also research whether it would be practicable to carry out one-off or ongoing fundraising initiatives or events that you can use to raise funds.

Check what if any grants might be available to you from government bodies or from other charities, public or from corporate donors, and you could also research whether it would be practicable to carry out one-off or ongoing fundraising initiatives or events that you can use to raise funds.

10. Burden of administering a charity under general law

Dealing with both charity law and the general law

The areas of law and regulation that a charity (in any case) will have to deal with will vary from case to case, but the following list (in no particular order) lists those areas of law and regulation most likely to have an impact on a charity and its trustees:

The areas of law and regulation that a charity and its trustees will vary from case to case, but the following list (in no particular order) lists those areas of law and regulation most likely to have an impact on a charity and its trustees:

- Charity law and governance
- Company law
- Risk Management (including cyber risk, data loss, asset protection, fraud risk, disaster recovery)
- Conflicts of interest
- Tax and VAT
- Regulation of fundraising (including appeals for funds, collections, etc.)
- Employment
- Pensions
- Equality
- Data protection
- Buying goods or services
- Selling goods or services
- Retail shop sales
- Consumer law
- Website sales
- Website regulation
- Contracts
- Making/receiving grants
- Borrowing/financing
- Health & safety
- Safeguarding (children, vulnerable adults)
- Insurance
- Intellectual property (including trademarks, confidential information)
- Licensing
- Advertising
- Acquiring/disposing of property
- Planning law, consent

Financial management, investment management, asset protection, litigation damage, money laundering, etc.

(including appeals for funds, collections, etc.)

Some of those areas are covered in more detail in the relevant sections of this guide, which you will find in this folder. You might also find it helpful to peruse material in our Business folder.

Intellectual property rights, trade marks, confidential information

Acquiring/disposing of property and protection.

Charity law and governance, document templates and forms in the Documents group. You might also find it helpful to peruse material in the Corporate folder and in our Business folder.

Before you set up a new charity, you should check what areas of law and regulation will be relevant to you and take advice on which areas you need to do to comply with the relevant requirements.

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11. Start up tips

Setting up and running a new charity

Setting up and running a new charity, considering and dealing with some of the areas of law and regulation that a charity and its trustees will have to deal with.

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of the same legal and bus
You might therefore find i
[Start Up Tips](#) in our free B
you take any steps to set u

when setting up a small business.
in the issues covered in [Business](#)
on which you can see [here](#) before

There might also be some
charities that you might als

ess or financial issues specific to
you take any other steps.

12. Other matters to think ab

charity

Other matters could also
impact on the success of y
running a charity? If not, c
you can gain a better und
starting any other type o
encountered in other kinds
the first trustees, will you h
it successfully and keep it
governance, you cannot
decisions alone; decisions
carried out adequate and r
beneficiaries of your cha
organisations which will or
useful and helpful contacts

important in terms of their practical
, have you personal experience of
existing charity for a while so that
tailed: starting a charity is unlike
rise in charities that will not be
re a/the founder and will be one of
e to devote to the charity to launch
e that, as the founder, in terms of
our charity” and simply make all
all trustees collectively. Have you
including consulting with potential
re of any other charity or other
ur charity for funds? Do you have
the charity?

13. Checks before you set up

Before you to set up your n

register it, you should first:

- be clear that you w
organisation or activ
- ensure that the orga
law
- choose trustees, en
that they are willing
there be at least thr
- decide on the type o
- choose a name for
be used for that pur
- decide on and write
- create the charity's
use one of those or
- ensure that the new

ity rather than some other type of

atures that qualify it as a charity in

s eligible to be trustees, and check
as a trustee. We recommend that

charity

g that the name you propose may
restrictions on names

. constitution) – you might wish to
it.

the public benefit requirement

14. What does it cost to set u

There is no fee to register
form of the charity. If you
guarantee, you will need t
payable.

y Commission, whatever the legal
of charitable company limited by
es House, and a small fee will be

You might need to incur so

.g. solicitor, accountant) but some

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professional firms might of or provide some advice on the charity is carried out by any staff or premises, other

15. How to register a new charity

Registration not applicable
If your new charity will not be planning to set it up in the UK, you will not need to register it with the Charity Commission and run your organisation as a charity in law although you will still be a charity with the Charity Commission. You might wish to set up a constitution such as our [Small Unincorporated Charity](#) which you can find [here](#).

Registration required
If however, your new charity is to be set up in the UK as an Incorporated Organisation, and its annual income will exceed £5,000, you must register it with the Charity Commission. To register your charity, you will need to complete a form which you can find [here](#). You will also need to create a password so that you can access the Charity Commission's online charity registration service.

You might also want to register with HM Revenue & Customs so that you can claim tax benefits, e.g. Gift Aid. The

Charity Commission might even do some work for you (without charge). If all of the work of the charity is carried out by volunteers, and the charity does not need to employ any staff, the fee will be nominal.

If your charity's annual income is less than £5,000 per year and you are not forming a Charitable Incorporated Organisation, you can still form a charity in law, it will still be a charity with the Charity Commission. You can form a charity using a relatively simple constitution for a [Small Unincorporated Charity](#)

If you choose the legal form of a Charitable Incorporated Organisation, its annual income will exceed £5,000 and you must register it with the Charity Commission.

On the Charity Commission website page you will need to input your email address and a password for the charity's online charity registration service.

You will also need to register with HM Revenue & Customs so that you can claim tax benefits, e.g. Gift Aid. The form which you can find [here](#).

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